

REMARKS

Reconsideration of the application is respectfully requested for the following reasons:

1. In the Specification

The specification has been amended to include appropriate section headings according to sections of the specification. Removal of the objection is respectfully requested.

2. Rejection of claims 1-18 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,719,950 (Osten et al. '950)

Claims 1-18 presently stand rejected under 35 U.S.C. 102(b) as being anticipated by Osten et al. '950. Applicants respectfully traverse this rejection. As will be discussed below, Osten et al. '950 fails to disclose or suggest the method for biometric authentication of a person of claim 1, the apparatus of claim 10 having a first memory storing a person's biometric data and a second memory storing a parameter with reference to a person's biometric data, and the system of claim 13 including the apparatus of claim 10, a first device for detecting biometric data and a second device for comparing reference data to detected biometric data and authenticating the detected biometric data. The claims which depend from claims 1, 10 or 13 are at least patentable based on their dependency from claims 1, 10 or 13 and their individually recited elements.

a. Invention Distinguished

Each of claims 1, 10 and 13 relate to detecting and storing a person's biometric data, and establishing or storing a "parameter" related to and influencing the sensory detection of the person's biometric data so as to authenticate the

person's biometric data. This parameter is, in effect, basically a quality parameter used to verify the legitimacy of the detected biometric data.

b. Reference Distinguished

Osten et al. '950 relates to a system that employs biometric data and at least one non-specific biometric parameter to authenticate an individual. Osten et al. '950 differs from the present invention on the basis of several important particulars

First, Osten et al. '950 fails to disclose or suggest establishing or using a "parameter" that influences the sensory detection of the biometric data used to authenticate the individual. In Osten et al. '950, while the biometric data are used to authenticate an individual, such authentication is confirmed with the non-specific biometric parameters. The non-specific biometric parameters discussed in Osten et al. '950 are not based on parameters which influence the sensory detection of the biometric data, but instead include characteristics such as bone structure, physical dimensions, skin temperature, electrocardiographic signals, pulse and spectral characteristics of human tissue (col. 3, lines 1-13). It follows that the non-specific parameters are not directly related to the person or specific biometric data being authenticated, but instead are used to confirm the viability of the person seeking authentication (col. 4, lines 14-25). On the other hand, the "parameter" recited in the claims of the present invention is directly related to the person and their biometric data being authenticated.

Osten et al. '950 does not disclose that the non-specific biometric parameters that are used to authenticate the biometric data are parameters which influence the sensory detection of the biometric data of the authenticated individual. In fact, Osten et al. '950 teaches away from the present invention in that the non-specific biometric parameters do not need to be unique to the individual and are comparable to physiological norms that are variable during the time of authentication (col. 2, lines 47-50). It will be noted that in the method, apparatus and system of the present

invention, the parameter is in reference to the person's individual properties and are therefore "unique" to the person.

Since Osten et al. '950 fails to disclose or suggest using a "parameter", as defined in the present specification, with reference to the person's individual properties influencing the sensory detection of the biometric data, Osten et al. '950 cannot possibly be construed to disclose or suggest the following limitations of claims 1, 10 and 13 (this claim incorporating the apparatus of claim 10):

Claim 1 - the method including the step of detecting a parameter with reference to the person's individual properties influencing the sensory detection of the biometric data, and storing the determined parameter to be taken into account for later consideration; and

Claim 10 (and claim 13) - the apparatus having a second memory area storing a parameter determined with reference to the person's individual properties influencing the sensory detection of the biometric data.

Keeping in mind the basis of the "parameters" in claim 1, it will be pointed out that the parameters are used to redetect biometric data, compare the redetected biometric data for a match with reference data or authenticate a person if the match reaches a degree above a defined threshold value. In view of the non-specific data disclosed in Osten et al. '950, such steps are clearly not disclosed or suggested therein. In fact, Osten et al. '950 describes the non-specific data as being used on separate tests which are then correlated with the specific biometric parameter (col. 4, lines 5-25).

Accordingly, Osten et al. '950 fails to disclose or suggest the steps of the method according to claim 1 of the present invention. Claims 2-9, which depend either directly or indirectly from claim 1, are at least patentable based on their dependency from claim 1 and their individually recited elements. Osten et al. '950 also fails to disclose or suggest the apparatus of claim 10 of the invention. Claims

Application No.: 10/030,163
Examiner: Daniel St.CYR
Art Unit: 2876

11-12, which depend directly from claim 10, are therefore patentable based on their dependency from claim 10 and their individually recited elements. Furthermore, Osten et al. '950 fails to disclose or suggest the system according to claim 13. Claims 14-18, which directly depend from claim 13, are therefore patentable based on their dependency from claim 13 and their individually recited elements.

Accordingly, withdrawal of the rejection is respectfully requested.

3. Conclusion

In view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that claims 1-18 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicants' Attorney, the Examiner is invited to contact the undersigned at the numbers shown below.

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176
Phone: (703) 683-0500

Date: May 27, 2003

S:\Producer\jek\MODL - 030163\amendment.wpd

Respectfully submitted,



JUSTIN J. CASSELL
Attorney for Applicants
Registration No. 46,205